

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7001

BILL NUMBER: HB 1277

NOTE PREPARED: Feb 1, 2010

BILL AMENDED: Feb 1, 2010

SUBJECT: Health Disparities in Medicaid.

FIRST AUTHOR: Rep. Crawford

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☒ **FEDERAL**

IMPACT: State

Summary of Legislation: (Amended) *Managed Care Requirements:* This bill requires a managed care organization (MCO) that contracts with the Office of Medicaid Policy and Planning (OMPP) to provide Medicaid services to do the following:

- (1) Report to the Select Joint Commission on Medicaid Oversight (JCMO) concerning the MCO's culturally and linguistically appropriate services standards plan and the progress in implementing these standards.
- (2) Report to OMPP specified member-related information.
- (3) Implement standards concerning culturally and linguistically appropriate services (CLAS), and encourage practices that are more culturally and linguistically accessible.
- (4) Develop and administer a community-based health disparities advisory council.

Withholding MCO Reimbursement: The bill requires OMPP to, beginning January 1, 2011, withhold a percentage of reimbursement from a managed care organization under specified circumstances.

Request for Proposal (RFP) Requirements: The bill also requires the inclusion of criteria evaluating the MCO's cultural competency in working with minority populations in a request for proposal, and requires preferences to be awarded to an MCO that shows evidence of cultural competency.

OMPP Reporting Requirements: The bill requires OMPP to: (1) annually report specified information to the Legislative Council; (2) include as part of the member's pharmacy benefits prescription drug labeling in the member's preferred language; and (3) establish standards and guidelines and ensure continuity of care for Medicaid recipients who transfer from an MCO.

Medicaid Vendor Quality Initiatives: The bill also requires Medicaid vendors to establish specified quality

initiatives.

Prescription Drug Labeling: The bill requires a pharmacy that participates in the Medicaid program to provide prescription drug labels in the Medicaid recipient's preferred language upon request.

Effective Date: (Amended) Upon Passage; July 1, 2010.

Explanation of State Expenditures: (Revised) *Managed Care Requirements:* The provisions of the bill would apply to MCOs, pharmacy benefits managers, case management coordinators, and behavioral health services coordinators that contract with OMPP for risk-based managed care. This would include managed care services in Medicaid, the Children's Health Insurance Program (CHIP), and the Healthy Indiana Plan (HIP). Any additional MCO costs required by the bill would occur within the capitated managed care contracts. The state pays a capitated amount for each MCO member month regardless of the cost incurred by the MCO for the member's care or the MCO's administrative costs. The bill would result in increased costs to the state to the extent that increased risk-based managed care costs, which must be actuarially determined, would be passed through to the state in the negotiated rates for the CY 2011 capitation rate. The fiscal impact would depend on actions taken by the MCOs to implement the provisions of the bill.

RFP Requirements: The bill would require all future requests for proposals (RFPs) for risk-based managed care services to include criteria concerning the bidder's cultural competency in working with minority populations for evaluation of proposals and award preference points to bidders that provide evidence of cultural competency. This provision should be achievable within the level of resources available to the agency for administrative functions.

(Revised) *OMPP Reporting Requirements:* The bill requires OMPP to include additional specified Medicaid information concerning the number of recipients that transfer from one MCO to another, the reason for the transfer, and the health outcomes of the recipients six months after the transfer along with the required annual report to the Legislative Council. The General Assembly web site did not include a report from OMPP with information currently required by statute. The additional data elements specified may require additional data collection by either the MCOs or OMPP. The health outcomes information requires the MCOs to do two health assessments; the first within 15 days of the transfer and the second within 6 months of the transfer. The level of resources required to do the health assessments and to obtain and report the specified data is not known at this time.

Withholding MCO Reimbursement: The bill would require OMPP to withhold a percentage of reimbursement from a managed care organization that shows a lack of improvement in improving health disparity outcomes. This provision would probably not be enforceable until it is included in a contract amendment or a new contract. OMPP currently includes pay for performance in the MCO contracts. Quality performance measures are determined and target levels are set by OMPP. MCOs that meet or exceed the goal levels are eligible for additional payments.

Medicaid Vendor Quality Initiatives: The bill requires any person that receives reimbursement under Medicaid or that contracts with OMPP to provide direct services to implement at least two quality improvement initiatives in obstetrics, asthma, diabetes, immunizations, or the items included in the HEDIS data set. At least one of the initiatives must address race, ethnic, or other geographic disparities. The providers would be required to include baseline data on individuals receiving services from the provider, include measurable goals and outcomes, and use a third-party source to evaluate the provider's initiatives. This requirement appears to apply to all providers regardless of the amount of reimbursement involved or the

volume of services provided; single practitioners, Area Agencies on Aging, hospitals, nursing facilities, and MCOs would be required to comply. The bill does not provide any enforcement authority or require reporting of the quality improvement initiatives, the outcomes, or evaluations.

The Medicaid program is jointly funded by the state and federal governments. The state share of program expenditures is approximately 36%. Medicaid medical services are matched by the federal match rate (FMAP) in Indiana at approximately 64%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%.

Background & Additional Details on MCO Requirements- Additional requirements imposed on MCOs by the bill include the following.

(1) The Medicaid MCOs are required to report to the JCMO concerning the MCO's culturally and linguistically appropriate services standards plan and the progress in implementing these standards. This reporting requirement alone should not result in additional cost to the MCOs or the state.

(Revised) (2) OMPP or the enrollment contractor is required to report information concerning race and the primary language of the members enrolled with the MCO to the MCO. States are required to provide this information to the MCOs. OMPP reported in the Quality Strategy Overview for 2008, that the Medicaid application process solicits information on the applicant's race and primary language. At that time, OMPP did not have the ability to transmit the race data to the MCOs. OMPP was also investigating the possibility of collecting ethnicity data during the application process. It was further reported that data regarding the primary language spoken is sent to the MCOs twice monthly. It is not known at this time what progress was made by OMPP on providing the race and language data to the MCOs. MCO contracts contain language requirements compliant with federal regulations.

(3) The bill requires the MCOs to establish and administer standards concerning culturally and linguistically appropriate services. The standards are to be included in a written plan to encourage practices that are more culturally and linguistically accessible. The MCOs are required to report annually on the progress of the plan to the Interagency State Council on Black and Minority Health.

(Revised) (4) The bill requires the three MCOs to establish and administer a community-based health disparities advisory council. The bill allows the MCOs to collectively establish the health disparities advisory council. The bill requires the council or councils to have nine specified members representing certain constituencies and then provides that 75% of the council membership must be individuals that are not employed by the MCO. The bill specifies the duties of the health disparity advisory council or councils and also provides that the MCOs are required to pay for the costs of the council or councils, including travel expenses of the members. The MCO contracts would probably need to be amended to include this provision. Cost to the state would be passed through the contractual capitated payments the state pays the MCOs.

(Revised) (5) The bill also requires pharmacies to print the labels of prescription drugs in a Medicaid member's preferred language. OMPP now contracts directly with the pharmacy benefits manager (PBM) for managed care Medicaid recipients. The bill requires the PBM to require this provision for all Medicaid prescriptions dispensed by a pharmacy.

Explanation of State Revenues: See *Explanation of State Expenditures* regarding federal reimbursement in the Medicaid Program.

Explanation of Local Expenditures: Local government-owned hospitals and health facilities would be required to comply with the Medicaid quality initiatives and prescription drug dispensing requirements included in the bill.

Explanation of Local Revenues:

State Agencies Affected: FSSA, OMPP; Potentially the Indiana State Department of Health.

Local Agencies Affected: Local government-owned hospitals and health facilities.

Information Sources: U.S. Government Accountability Office, GAO-05-44R Medicaid Managed Care Access and Quality Requirements; "State of Indiana Office of Medicaid Policy and Planning, Quality Strategy, 2007-2008".

Fiscal Analyst: Kathy Norris, 317-234-1360.